

## AMENDMENTS TO THE CLAIMS:

The listing of the claims will replace all prior versions, and listings, of claims in the application.

### LISTING OF CLAIMS:

1. (Amended) A construction hole safety device comprising:  
a top cap having top and bottom surfaces and an underlying body stem fixedly attached to the bottom surface of said cap and extending substantially  
perpendicularly from said bottom surface ~~thereto~~, said device made of sturdy, wear-resistant material, wherein said body stem can fit within a man-made hole, and withstand the weight of people and construction equipment traveling thereon.
2. (Amended) The device of Claim 1, wherein said device is ~~constructed of one piece of material~~.
3. (Amended) The device of Claim 1, wherein ~~said device is substantially circular in both the~~ top cap and body stem are both substantially circular in configuration.
4. (Withdrawn) The device of Claim 1, wherein said device is substantially rectangular in both top cap and body stem.
5. (Original) The device of Claim 1, wherein said top cap is larger in diameter at all points than the body stem by at least 1/8 inch.
6. (Cancelled)
7. (Original) The device of Claim 1, wherein said device is comprised of high-impact polyethylene.
8. (Cancelled)

9. (Original) The device of Claim 1, wherein said device bears warning labels attached to the top cap such that such labels are clearly visible when the device is in use.

10. (Cancelled)

11. (New) The device of Claim 1 where the top surface of the top cap tapers downwardly from the center area of the cap towards the outside edge of said cap.

12. (New) The device of Claim 1, where the taper is in the form of a downward curve.

13. (New) The device of claim 1, wherein said body stem comprises a hollow cylinder.

14. (New) The device of Claim 1, wherein the body stem is sized to fit snugly into a construction hole.

15. (New) The device of Claim 1, wherein said device is positioned within the construction hole by means of the body stem.